

young and helpless; that her husband is destitute of property, and has actually applied for the benefit of the insolvent laws; that she has no means of support; and praying that her proportion of the proceeds of sale may be invested for her support, and the support of her children.

The Messrs. Boggs also filed their petition, claiming the said proceeds of sale should be paid over to them as judgment creditors of Jonathan McVey, upon a judgment recovered by them in Harford County Court, in November, 1844, upon which *fi. fas.* had been issued and returned *nulla bona*.

The real estate was sold on the 8th of September, 1849, and the sale finally ratified on the 10th of February, 1851. Jonathan McVey petitioned for the benefit of the insolvent laws on the 16th of May, 1849, and it was admitted that he and his wife have no property, and that they have a large number of children, and that Mrs. McVey is dependent chiefly upon the personal exertion of herself and husband for the support of herself and children, that is, that they have no property except their share of the proceeds of the sale in this case.

Both these petitions were set down for hearing, and being heard, the Chancellor delivered the following opinion.]

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THE CHANCELLOR:

The case of *Duwall vs. The Farmers' Bank of Maryland*, 4 G. & J., 282, has established the principle, long before recognized and acted upon in England, and in several of the States of this Union, that where the aid of a Court of Equity is necessary to enable the husband to obtain possession of the wife's personal estate, he must do what is equitable by making a suitable provision out of it for her maintenance, and the maintenance of her children. And the principle prevails, though there has been an assignment by the husband for a valuable consideration, and the assignee, standing in the place of the husband, and seeking to withdraw the funds from the Court, will be compelled to make the provision.

This allowance to the wife, though the creature of the Eng-